



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers  
WASHINGTON, D.C. 20314-1000

REPLY TO  
ATTENTION OF:

CERE-M

December 21, 1992

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Administrative Fee Schedule and Interim Revision to ER 405-1-12, Chapter Eight, Regarding Administrative Charges for Outgrants

1. Effective immediately U.S. Army Corps of Engineer District offices will begin charging and collecting the fair market value or administrative fee, whichever is higher, for issuing and processing outgrants on military and civil works properties.
2. Enclosed is an administrative fee schedule (Encl 1) and interim revision to ER 405-1-12, Chapter Eight (Encl 2) for purposes of implementing this directive.
3. An Administrative Charge Task Force was convened and initially met in Washington, D. C., on 22 October 1991. The purpose of the Task Force was to establish an administrative charge schedule for military and civil outgrants, as required by 31 USC @9701, DoDI 7230.7 and the recommendations made in IG DoD, Report on Audit of User Fees (Report No. 89-033).
4. The Task Force met three times before submitting its findings and recommendations to HQUSACE for review and consideration. These findings and recommendations were sent to each of the Divisions/Districts for comment. We have reviewed the Division/District comments on the findings and recommendations of the Task Force.
5. It is our conclusion that the basic charges described on the enclosed administrative fee schedule are reasonable and are based on the best data available to the Task Force. The Task Force was at a serious disadvantage in arriving at the average administrative costs for the varying categories of outgrants. Historically the Districts have not been charged with maintaining the necessary records to arrive at such costs. As noted in the attached interim revisions to Chapter 8, ER 405-1-12, the administrative fee schedule will be revised every five years or more frequently, if appropriate. Districts will begin monitoring the costs associated with preparing, processing and issuing the outgrant to verify future administrative charges.

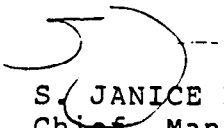
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6. The cumulative administrative fee is the total basic charge and monitoring/compliance fee and unusual/extraordinary incidental costs. The total monitoring/compliance fee for the term of the outgrant will be included in the calculations for issuing and processing the outgrant. For example, if the outgrant to be issued is a simple category 2 outgrant and is for a five-year term, the fee will be the basic administrative fee of \$250.00 plus \$125.00 monitoring/compliance fee for a total consideration of \$375.00. For a more complicated action, i.e. a category four outgrant for a five-year term, the fee would be the basic administrative fee \$600.00 and the monitoring/compliance fee of \$200.00 and any extraordinary and unusual incidental costs.
7. The cumulative administrative fee (basic administrative charge and monitoring/compliance fee and extraordinary and unusual incidental costs) would then be compared to the fair market value. The consideration for the outgrant is the greater figure.
8. When necessary, the District shall prepare a good faith estimate of extraordinary and unusual incidental costs with justification for such costs to be incurred by the District in preparing and processing the outgrant. Such costs shall include the appropriate charges for appraisals, title searches, joint inventory/condition inspection reports and mapping and legal preparation. Additionally, it will include actual manpower costs incurred, as described (on) the appendix to the administrative fee schedule, for those complex cases involving extraordinary manpower resources. The estimate will be furnished to the Grantee as soon as practical. We recommend that the Districts carefully assess all extraordinary and unusual incidental costs and advise the Grantee of any changes, when needed. We would like the actual charges incurred to be no more than the estimate.
9. Administrative fees will be charged for processing assignments and a right-of-entry. Depending on the complexity of the assignment or right-of-entry, it should be a category 1 or 2.
10. POC is Karen Bowen, 202-272-1751.

FOR THE DIRECTOR:

Encls  
nc

  
S. JANICE HOWELL  
Chief, Management and Disposal  
Division  
Directorate of Real Estate

# ADMINISTRATIVE FEE SCHEDULE (BASIC ADMINISTRATIVE FEE)

DESCRIPTION	COMPONENT	EXAMPLES
\$ 135.00 - AN APPLICATION FOR LEASE, EASEMENT, LICENSE OR PERMIT TO AUTHORIZE USE OF LANDS AND FACILITIES UNDER THE ADMINISTRATION OF THE SECRETARIES OF THE ARMY & AIR FORCES FOR WHICH THE DATA NECESSARY TO COMPLY WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS IS AVAILABLE IN THE OFFICE OF THE DISTRICT COMMANDER/INSTALLATION COMMANDER/PROJECT MANAGER OR FROM DATA FURNISHED BY THE APPLICANT; AND NO FIELD EXAMINATION IS REQUIRED	APPLICATION REVIEW NO SITE INVESTIGATION NO PAS MINIMAL NEPA REVIEW (CX) NO PLANNING DIVISION REVIEW (CIVIL) NO CULTURAL INVESTIGATION NO VALUE DETERMINATION NEEDED OUTGRANT PREPARATION IS MINOR EXHIBITS, IF ANY, ARE MINOR LITTLE OR NO LEGAL DESCRIPTION & DRAWING REVIEW CLERICAL REQUIREMENTS ARE MINOR SUPERVISOR REVIEW AND LEGAL REVIEW IS MINOR	LICENSES ASSOCIATED W/SHORELINE USE PERMITS ROUTINE LETTER PERMITS MINOR RENEWALS BY AMENDMENT OF CIVIL WORKS
*\$ 250.00 - AN APPLICATION FOR LEASE, EASEMENT, LICENSE OR PERMIT TO AUTHORIZE USE OF LANDS AND FACILITIES UNDER THE ADMINISTRATION OF THE SECRETARIES OF THE ARMY OF THE ARMY & AIR FORCE FOR WHICH THE DATA NECESSARY TO COMPLY WITH FEDERAL, STATE AND LOCAL LAWS REGULATIONS IN THE OFFICE OF THE DISTRICT COMMANDER/INSTALLATION COMMANDER/PROJECT MANAGER OR FROM DATA FURNISHED BY THE APPLICANT; AND ONE FIELD EXAMINATION IS REQUIRED TO VERIFY EXISTING DATA	SAME AS FOR CATEGORY 1 EXCEPT: SITE INVESTIGATION ACCOMPLISHED PAS IS REQUIRED NEPA REVIEW IS REQUIRED AND SUFFICIENT DATA IS AVAILABLE IN INSTALLATION OR DISTRICT COMMANDER'S OFFICE OR IS FURNISHED BY THE APPLICANT ENGINEERING DIVISION REVIEW IS NOT REQUIRED (CIVIL)	LEASES, LICENSES, PERMITS & EASEMENT WHERE LANDS VALUES AND THE GRANTED RIGHTS AND/OR USE OF THE LAND AREAS HAVE MINIMAL IMPACT ON THE ENVIRONMENT AND THE INSTALLATIONS'S OR PROJECT'S MISSION
*\$ 375.00 - AN APPLICATION FOR A LEASE, EASEMENT, LICENSE OR PERMIT TO AUTHORIZE USE OF LANDS AND FACILITIES UNDER THE ADMINISTRATION OF THE SECRETARIES OF THE ARMY & AIR FORCE FOR WHICH THE DATA NECESSARY TO COMPLY WITH FEDERALLY STATE AND LOCAL LAWS AND REGULATIONS IS AVAILABLE IN THE OFFICE OF THE DISTRICT COMMANDER INSTALLATION COMMANDER/PROJECT MANAGER OR FROM DATA FURNISHED BY THE APPLICANT; AND TWO FIELD EXAMINATIONS ARE REQUIRED TO VERIFY EXISTING DATA	SAME AS FOR CATEGORY 2 EXCEPT: TWO FIELD EXAMINATIONS ARE REQUIRED AND/OR APPLICATION REVIEWS AND APPROVALS ARE MORE COMPLEX CULTURAL INVESTIGATIONS ARE REQUIRED OPINIONS OF VALUE MAY BE NEEDED LEGAL DESCRIPTION & DRAWING REVIEWS MAY BE NEEDED SIGNIFICANT SUPERVISORY/LEGAL REVIEW	SAME AS FOR CATEGORY 2 EXCEPT: REAL ESTATE DOCUMENTS ARE MORE COMPLEX AND LAND VALUES ARE GREATER AND PERHAPS WITH GREATER IMPACTS ON THE ENVIRONMENT AND MISSION
\$600.00 - AN APPLICATION FOR A LEASE, EASEMENT, LICENSE OR PERMIT TO AUTHORIZE USE OF LANDS AND FACILITIES UNDER THE ADMINISTRATION THE SECRETARIES OF THE ARMY & AIR FORCE FOR WHICH THERE IS A NEED TO GATHER SOME ORIGINAL DATA IN ORDER TO COMPLY WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS AND/OR THREE FIELD EXAMINATIONS ARE REQUIRED IN THE COLLECTION AND VERIFICATION OR DATA	SAME AS FOR CATEGORY 3 EXCEPT: THREE FIELD EXAMINATION ARE REQUIRED AND/OR APPLICATION REVIEWS AND APPROVALS ARE MORE COMPLEX, AND/OR THERE IS A NEED TO GATHER SOME DATA TO COMPLY WITH NEPA	SAME AS FOR CATEGORY 3 EXCEPT: RESULTING DOCUMENTS ARE MORE COMPLEX AND LAND VALUES ARE GREATER AND MAY HAVE GREATER IMPACTS ON THE ENVIRONMENT AND MISSION THAT MUST BE CONSIDERED
*\$ 775.00 - AN APPLICATION FOR LEASE, EASEMENT, LICENSE OR PERMIT TO AUTHORIZE USE OF LANDS AND FACILITIES UNDER THE ADMINISTRATION OF THE SECRETARIES OF THE ARMY & AIR FORCE FOR WHICH THERE IS A NEED TO GATHER A SUBSTANTIAL AMOUNT OF ORIGINAL DATA IN ORDER TO COMPLY WITH FEDERAL STATE, AND LOCAL LAWS AND REGULATIONS AND THREE OR MORE FIELD EXAMINATIONS ARE REQUIRED IN THE COLLECTION AND	SAME AS FOR CATEGORY 4 EXCEPT: APPLICATION REVIEWS & APPROVALS ARE MORE COMPLEX, AND/OR THERE IS A NEED TO GATHER MOST, IF NOT ALL, OF THE NEPA DATA NEEDED	SAME AS FOR CATEGORY 4 EXCEPT: THE REAL ESTATE DOCUMENTS ARE MORE COMPLEX LAND VALUES ARE GREATER BUT INTEREST OR RIGHTS ARE STILL GREATER THAN THE PMVR/PMV

## ADDITIONAL CHARGES

1. Outgrant Monitoring/Compliance Costs incurred by the Department of Defense will be added to the basic administrative fee and included as partial consideration for the issuance and processing the outgrant. Monitoring/compliance fees shall be assessed the applicant rate of \$25.00 for each year for outgrant in categories one through three inclusive and \$40.00 for each year for outgrant in categories four and five inclusive. Monitoring/compliance fees will be charged at the applicable rate for any partial increment thereof during which the outgrant remains in effect. For example, the Grantee will be assessed a \$125.00 monitoring/compliance fee for an outgrant categorized one through three and issued for a five year term.

2. Extraordinary or unusual incidental cost incurred by Department of Defense in conjunction with outgrant issuance. A fee will be assessed for the performance of each of the following services rendered on, behalf and for the direct benefit of the Grantee:

Appraisals \$500 (including travel expenses)

Title Searches \$50

Joint Inventory/Condition Inspection Report \$100

Mapping and legal preparation \$50

For those complex cases involving additional manpower, the Department of the Army will prepare a good faith estimate of manpower costs based on actual costs to the Government. For example the following rates apply:

GS4	STEP 8(19,497)=\$ 9.37/hr.
GS9	STEP 6(31,263)=\$15.03/hr.
GS11	STEP 5(36,474)=\$17.67/hr.
GS12	STEP 4(42,746)=\$20.55/hr.

## SUMMARY

In conclusion, the administrative fee is the total basic charge and monitoring/compliance fee and unusual/extraordinary incidental costs.

ETNCL 1

INTERIM REVISION TO ER 405-1-12, CHAPTER  
REGARDING ADMINISTRATIVE CHARGES FOR OUTGRANTS

1. Page 8-19, rename paragraph 8-4.d. as consideration and add the following:

d. Consideration.

(1) General. 31 U.S.C. @9701 (Independent Offices Appropriation Act of 1952) expresses that sense of Congress that "...each service or thing provided by an agency...is to be self sustaining to the extent possible," and states specifically that "The head of each agency...may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be -- (1) fair; and (2) based on -- (A) the costs to the Government; (B) the value of the service or thing to the recipient; (C) public policy or interest served; and (D) other relevant facts." Office of Management and Budget Circular A-25, which implements the act, states that when federally-owned property is leased or sold, the fair market value should be obtained unless the incremental cost of collecting the fees would be an unduly large part of the receipts from the activity and that the fair market value is determined in accordance with commercial rates and prices for similar property in the geographical area.

(2) Determination of Consideration. The consideration for all outgrants shall be either the fair market value or the administrative fee, based upon the full term of the outgrant, whichever is greater, unless excepted below.

(a.) Fair Market Value. At the discretion of the District Chief of Real Estate, formal, detailed appraisals may be dispensed with when the estimated fair market value or is less than \$2,000 annually. A memorandum of value by the Chief Appraiser in the District or his or her designee may be used to establish the value of the right to be outgranted.

(b.) Administrative Fee. For the purpose of determining basic administrative fees, outgrants have been separated into categories which reflect the work effort involved in issuing and managing the outgrant. The fee schedule included as Figure " A " reflects the five categories established for civil and military outgrants and the basic administrative charge for each category. This schedule will be revised every five years, or more frequently, as appropriate.

(c.) Exceptions.

1. Because of the public policy or interest served, monetary consideration may be waived or reduced when:

a. A consent agreement is issued which primarily benefits the Government.

b. An outgrant or consent is issued to the underlying fee owner for approval of structures in easement areas in accordance with the easement estate.

c. The recipient of the benefits is engaged in a nonprofit activity designed for the public safety, health and welfare.

d. Payment of the full fee by a state and local governments or nonprofit group would not be in the interest of the program.

2. The fair market value of an outgrant will be charged in lieu of administrative fees when:

a. The fair market value exceeds the established administrative fee.

b. The consideration is determined by competition.

c. The outgrant is a cottage site lease issued under the authority of 16 U.S.C. 460d, as amended by section 1134 of the Water Resources Development Act of 1986, which states that such leases will be issued for the fair market value.

3. Statement of Payments. All outgrants shall clearly state the consideration reserved.

(1) If consideration for an outgrant is waived pursuant to paragraph 8-4d(2)(c)1.c. or d. the outgrant shall state that the consideration is the operation, maintenance, and repair of the property.

(2) If monetary consideration is reserved, the outgrant shall specify the amount due, payment due date, and a requirement that payment be received no later than the due date. Monetary consideration will be stated using words and numerals (e.g., one hundred ninety-two and 50/100 dollars (\$192.50)). Indicate the frequency of periodic payments after the word "payable" in the payment clause (e.g., annually, semi-annually, quarterly). Monthly payments are discouraged. Payments are payable in advance to Finance and Accounting Officer, U.S. Army Corps of Engineers. Insert the words "in full for the term" after the word "payable" in the payment clause if there is one payment for the entire term. If consideration is based on gross receipts or other special calculations, indicate this clearly in the payment

clause; show also the method of calculation, period covered, and when payments are due. Paragraph 8-20 gives instructions on rental abatements under 10 U.S.C. 2667.

4. Page 8-32. The first sentence of paragraph 8-8.c. is rewritten as follows:

c. Form of Right-of-Entry. Right-of-entry is a written instrument executed by both parties as an interim measure to a subsequent action. If appropriate, a separate administrative fee may be charged specifically for the right-of-entry in accordance with Figure " A " referenced in Section 8-4.d of this regulation. The Right-of-Entry binds the grantee to pay the agreed consideration or the rental determined by Government appraisal and to accept all terms and conditions of the proposed outgrant.

5. Page 8-33, paragraph 8-8.c., replace the second to the last sentence with the following: Before the right-of-entry is executed, inform the grantee of the established administrative charge, or if fair market value will be required, every effort will be made to appraise the property and inform the grantee of the amount before the right-of-entry is executed.

6. Page 8-55, replace paragraph 8-20.j. with the following:

j. Consideration.

(1) Except as otherwise specifically provided in succeeding paragraphs of this section, or by express instructions in individual cases, all leases will reserve, as consideration, no less than the fair market rental value of the property leased or the established administrative charge, as set forth in Figure " A " and paragraph 8-4.d. of this regulation, whichever is greater.

(2) Offset of Rental for Maintenance, Protection, Improvement, Restoration, Repair or Improvement Under 10 U.S.C. 2667 Leases. To the fullest extent practicable, lessees will be required to improve, maintain, protect, repair, improve and restore Government facilities on leased properties, exteriors as well as interiors, as all or part of the rental. These obligations may extend to an entire lease unit or installation if a substantial part thereof is being leased pursuant to 10 U.S.C. 2667. However, the Comptroller General of the United States has ruled that offset of rental for improvement, maintenance, protection, restoration, or repair of an entire or major portion of an installation or building by a lessee leasing only a minor part or portion of the facility may be considered a subterfuge to obtain maintenance of the facility without charges to appropriations and thus be violative of 10 U.S.C. 2667. In any case, the value of the rental offset for improvement, maintenance, protection, repair, improvement or restoration or

any cash rent reserved to the Government must equal or exceed the fair market value of the lease. The District Commander should coordinate with the using service whenever any question exists as to the amount of such responsibilities which a lessee should be required to assume. These questions often arise where the lessee and the Government use properties jointly. In making appraisals of the fair market rental, any offsets for improvement, maintenance, protection, restoration, improvement or repair will be considered.

(3) Cottage/Cabin Site Leases issued under 16 U.S.C. 460d. Leases for cottage/cabin sites covered by P.L. 99-662, as amended, will only reserve fair market rental, as consideration.

7. Page 8-80, amend paragraph 8-22.d.(3). (Leases to Nonprofit Organizations for Park or Recreational Areas) "such organizations which now operate as private clubs will be charged the appraised fair market rental value, or the established administrative charge, as set forth in Figure " A " and paragraph 8-4.d. of this regulation whichever is greater, and their leases are renewed or amended in accordance with paragraph 8-22.e, unless otherwise excepted.

8. Page 8-82, amend paragraph 8-22.e.(4). (Leases for Private Recreational Purposes). Consideration. As shown in Paragraph 8-20.j the consideration will be the greater of the fair market value or the established administrative charge as shown in Figure " A " of this regulation."

9. Page 8-86, add paragraph 8-25.f. (Leases for Miscellaneous Purposes) Consideration. As shown in Paragraph 8-20.j the consideration will be the greater of the fair market value or the established administrative charge as shown in Figure " A " of this regulation.

10. Page 8-92, replace paragraph 8-30.f. with the following:

f. Consideration:

(1) Except as otherwise specifically provided in succeeding paragraphs of this section, or by express instruction in individual cases, all easements will reserve as consideration the greater of the fair market value or the established administrative charge, as set forth in Figure " " and paragraph 8-4. of this regulation.

(2) Monetary consideration may be waived for outgrants issued to Federal, state, or local governments, political subdivisions, or nonprofit organizations for purposes benefitting the general public. However, if the grantee's principal source of revenue is generated through charges made to its customers (similar to those rendered by a profit-making corporation or

business), consideration shall be reserved.

11. Page 8-94, add to paragraph 8-31.f.(a) (Easements for Electric Power and Communications Lines via 43 U.S.C. 961). See paragraph 8-30f.

12. Page 8-96, amend paragraph 8-32.h. (Easements for Irrigation Pipelines to Owners of Established Water Rights) The greater of the fair market value or the administrative fee as set forth in para 8-30f., will be charged.

13. Page 8-97, add to paragraph 8-33.e.(1)(b). (Easements for Water and Sewer Pipelines) the following sentence. See paragraph 8-30.f.

14. Page 8-99, add as paragraph 8-34.i. (Easements for Various Rights-of-Way): Consideration. See paragraph 8-30.f.

15. Page 8-109, replace paragraph 8-40.d. (Consent Agreement) with: Consideration. Change to read: Consideration for consent agreements will be the established administrative fee as set forth in Figure " A " and paragraph 8-4.d. of this regulation.

16. Page 8-111, paragraph 8-41 (Use of Land as Water by Adjoining Occupant) after the words "... fair market value, ..." insert: "... or the established administrative charge set forth in Figure " A " and paragraph 8-4.d., whichever is greater,..."

17. Page 8-117, replace paragraph 8-52.e. with the following:

e. Consideration:

Except as otherwise specifically provided in succeeding paragraphs of this section, or by express instructions in individual cases, all licenses will reserve as consideration the greater of the fair market value or the administrative charge as set forth in Figure " A " and paragraph 8-4.d. of this regulation. In certain instances where no benefit accrues to the Government, an actual administrative charge may be used. Charges may be developed for different sub-categories of use.

16. Page 8-126, paragraph 8-57.d. (Rental Boat Licenses to Adjacent Private Resort Owners) replace the first sentence with: Consideration. The charge for each license will be the greater of the administrative fee or the fair market value as set forth in "Figure 4 as set forth in paragraph 8-4.d. Where multiple privileges are granted to one owner or group of owners (i.e., license for a power line, ramp, and walkway), the applicant will be charged for each of the individual privileges granted. If

these collective charges are less than the administrative fee, the administrative fee will be applied. To the maximum extent possible, where multiple license privileges are granted, the grants should be consolidated into one agreement.

18. Page 8-128, replace paragraph 8-60.d. with the following:

d. Consideration:

(1) Normally, no monetary consideration will be reserved for permits issued to Federal agencies.

(2) The consideration for permits to non-DOD federal agencies shall be the fair market value or the established administrative charge, whichever is greater, except monetary consideration will not be required in the following instances:

(a.) Where there is an interagency agreement that states that consideration will be waived, or;

(b.) Those permits which are in the nature of an easement granting a right-of-way for roads, pipelines, cables or any similar purpose.

(c.) Those permits, which, though not solely in support of the installations or project mission, substantially benefit the installation or project mission.

(d.) Those permits where the permittee's activity is solely in support of the installation or project mission.

(3) Regardless whether the permittee pays monetary consideration, they must reimburse the host for the cost of support (e.g., cost of facilities, utilities, communication and transportation services) under a separate, non-real estate agreement outlined in DOD 4000.19-R. Reimbursement responsibilities depend partly on whether the permit provides common-use, joint-use, or sole-use facilities as defined in DOD 4000.19-R. Except for industrially funded activities, the party with accountability for property is responsible for routine maintenance and cyclical repair. The permittee is responsible for maintenance and repair which exceed the host's regulatory standards for maintenance and repair. For industrially funded activities, the permittee shall reimburse the host for services. Special charges are required for storage and warehouse space, according to Table 5-1, AR 705-1. If the United States leases the property being permitted, the permittee will pay a proportionate share of the rental paid by the United States.

CERE-M

SUBJECT: Administrative Fee Schedule and Interim Revision  
to ER 405-1-12, Chapter Eight, Regarding Administrative Charges  
for Outgrants

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LITTLE ROCK DISTRICT, ATTN: CESWL-RE  
LOS ANGELES DISTRICT, ATTN: CESPL-RE  
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MEMPHIS DISTRICT, ATTN: CELMM-RE  
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PHILADELPHIA DISTRICT, ATTN: CENAP-RE  
PITTSBURGH DISTRICT, ATTN: CEORP-RE  
PORTLAND DISTRICT, ATTN: CENPP-RE  
ROCK ISLAND DISTRICT, ATTN: CENCR-RE  
SACRAMENTO DISTRICT, ATTN: CESP-RE  
ST. LOUIS DISTRICT, ATTN: CELMS-RE  
ST. PAUL DISTRICT, ATTN: CENCS-RE  
SAN FRANCISCO DISTRICT, ATTN: CESP-RE  
SAVANNAH DISTRICT, ATTN: CESAS-RE  
SEATTLE DISTRICT, ATTN: CENPS-RE  
TULSA DISTRICT, ATTN: CESWT-RE  
VICKSBURG DISTRICT, ATTN: CELMV-RE  
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WILMINGTON DISTRICT, ATTN: CESAW-RE